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12 **UNITED STATES DISTRICT COURT**
13 **SOUTHERN DISTRICT OF CALIFORNIA**
14

15 LIBERTY MEDIA HOLDINGS,
16 LLC,

17 Plaintiff,

18 v.

19
20 DAVID TRICE, ERIC BROWN,
21 JOHN DOE 2, and DOES 3–50,

22 Defendants.
23

CASE NO: 09-CV-2284 W (POR)

**CONSENT JUDGMENT
AGAINST DEFENDANT
DAVID TRICE**

24 Plaintiff Liberty Media Holdings (“LMH”), and Defendant David Trice (“Trice”),
25 both hereby consent and agree to this judgment to fully resolve all disputes between them
26 in the above-referenced action. By consent, Plaintiff and Defendant agree to the
27 following findings of fact, conclusions of law, and judgment.
28

I.

JURISDICTION

This Court has jurisdiction of the subject matter of this action and over each of the parties involved.

II.

BACKGROUND

1. LMH's claims in this action are for Copyright Infringement, Trademark Infringement, and Injunctive Relief arising from Trice's illegal manufacture and sale of pirated DVDs of LMH's works.

2. LMH markets and distributes these original works of creative expression through various mediums including Internet web content, DVDs, and photographs of an erotic nature. LMH's website has "free tour" areas where G-Rated photographs may be viewed, but its more explicit erotic works are only available to individuals who pay a monthly subscription fee or who purchase a DVD from LMH. Each work produced is registered with the United States Copyright Office.

3. LMH is the holder of the following federally registered trademarks: CORBIN FISHER®, serial number 78691008; CORBIN FISHER'S AMATERUR COLLEGE SEX, serial number 78691030; EXCELSIOR MEDIA, serial number 3200827.

4. Defendant TRICE sold pirated copies of LMH's copyrighted works to multiple parties.

5. Each of the audiovisual works at issue in this action is registered by LMH with the United States Copyright Office, or has an application for registration pending.

1 6. Each of the LMH's works is marked with LMH's trademark, CORBIN FISHER®,
2 a copyright notice, a warning that unauthorized copying is illegal and will be
3 prosecuted, and a statement regarding age verification records as required by 18 U.S.C. §
4 2257.

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6 7. Defendant TRICE knew or should have known that LMH is based in San Diego,
7 California, and that infringement of its works was likely to cause economic harm in
8 California.

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10 8. Defendant TRICE illegally manufactured and distributed counterfeit DVDs of not
11 less than 66 of LMH's works, each of which is independently registered with the United
12 States Copyright Office.

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14 9. Neither LMH nor any other person granted Defendant TRICE the right to
15 manufacture and/or distribute copies of the Plaintiff's copyrighted works.

16
17 10. At no time has Defendant TRICE obtained the right to manufacture and/or
18 distribute counterfeit copies of LMH's copyrighted works.

19
20 **III.**

21 **FIRST CAUSE OF ACTION**

22 (Federal Claim Against Defendant for Copyright Infringement)

23 (17 U.S.C. 101 Et. Seq.)

24 11. Defendant TRICE has illegally manufactured and sold many counterfeit DVDs of not
25 less than 66 of the LMH's copyrighted works.

26
27 12. LMH has registered the copyrights to each of these works, and owns exclusive rights
28 and privileges in and to the Copyrights.

1 13. Defendant TRICE's conduct infringes upon the LMH's Copyrights.

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3 14. Defendant TRICE's actions constitute an intentional and/or willful infringement
4 of the LMH's copyrights.

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6 15. Plaintiff has been damaged by Defendant TRICE's conduct, continues to be damaged
7 by such conduct, and has no adequate remedy at law to compensate LMH for all of the
8 possible damages stemming from the Defendant's conduct.

9
10 16. 17 U.S.C. § 504(c) establishes the right to elect to recover statutory damages
11 in an amount of not less than \$750 and not more than \$150,000 for each
12 infringement, in lieu of seeking recovery of actual damages.

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14 17. The Parties have stipulated to damages in the amount of \$15,000 per
15 infringement for a total of \$990,000 in damages.

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17 18. LMH is entitled to temporary, preliminary, and permanent injunctive relief to enjoin
18 any further such acts on the part of the Defendant TRICE or any party or entity acting in
19 consort with him.

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21 **IV.**

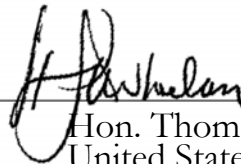
22 **JUDGMENT**

23 1. It is therefore ORDERED, ADJUDGED, and DECREED that Defendant
24 TRICE should be and hereby is permanently enjoined from infringing, directly or
25 indirectly, upon any copyrights or trademarks owned by Plaintiff Liberty Media
26 Holdings. In accordance with the parties' stipulation (Doc. No. 14) Magistrate Judge
27 Louisa Porter shall retain jurisdiction to enforce the terms of this Consent Judgment for
28 a period of ten (10) years from the date of entry of this document.

1 2. It is further ORDERED, ADJUDGED, and DECREED that Defendant TRICE
2 has incurred a statutory damages liability for his willful infringement of Plaintiff Liberty
3 Media Holdings' copyrights, and shall be penalized with an award of \$990,000 payable to
4 the Plaintiff Liberty Media Holdings, LLC..

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6 **IT IS SO ORDERED.**

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8 DATED: February 1, 2010

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11 Hon. Thomas J. Whelan
12 United States District Judge
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